

Divisions Affected – All

CABINET 15 October 2024

Community Wealth Building and Wider Social Value Report of Performance and Corporate Services Overview & Scrutiny Committee

RECOMMENDATION

1. The Cabinet is **RECOMMENDED** to —
 - a) Agree to respond to the recommendations contained in the body of this report, and
 - b) Agree that relevant officers will continue to periodically update the Performance and Corporate Services Overview & Scrutiny Committee over the next 12 months on progress made against actions committed to in response to the recommendations, or when such actions are completed.

REQUIREMENT TO RESPOND

2. In accordance with section 9FE of the Local Government Act 2000, the Performance and Corporate Services Overview & Scrutiny Committee requires that, within two months of the consideration of this report, the Cabinet publish a response to this report and any recommendations.

INTRODUCTION AND OVERVIEW

3. The Performance and Corporate Services Overview and Scrutiny Committee considered a report on the Council's Community Wealth Building and Wider Social Value at its meeting on 19 July 2024, shortly prior to Council's own consideration of this item.
4. The Committee would like to thank Cllr Dr Nathan Ley, Cabinet Member for Public Health, Inequalities and Community Safety, Robin Rogers, who was then Programme Director (Partnerships and Delivery), and Emily Urquhart, Policy Officer, for preparing and introducing the report, and for attending to answer questions.

SUMMARY

5. The Cabinet Member for Public Health, Inequalities and Community Safety introduced the report, which had been requested by the Committee, and explained the concepts and principles of community wealth building. Fundamentally, this was intended to maximise the benefit of Oxfordshire's strong economy to the benefit of all residents, whilst addressing inequalities and environmental challenges. Some of the Council's recent achievements around community wealth building included the development of the Council's Social Value Policy, its support for small businesses and social enterprises, and a recent collaboration with the Centre for Local Economic Strategies (CLES). The collaboration with CLES resulted in the development of a set of recommendations by CLES aiming to leverage the Council's position as a major procurer of goods and services, optimising the use of its land and assets, and enhancing learning and skill development. These recommendations acted as a potential roadmap to continue realising the Council's community wealth building ambitions.
6. Topics explored by the Committee in response to the presentation included challenges over how the Council would ensure a cross-county focus, particularly how it would identify areas pockets of poverty in otherwise wealthier areas; its plans for partnership working with other anchor institutions across the county; the progress of delivery and spend, as well as the means by which the Council would be able to evaluate the success of its interventions; and the Community Asset Transfer Policy.
7. The Committee makes two recommendations, focusing on clarifying working with others to clarify the law on disposals of property below best value under s. 123 of the Local Government Act 1972, and requesting ongoing consultation with members about the development of a new Community Asset Transfer policy. Further to this, the Committee makes two observations to highlight the importance of integrating the work of community wealth building with the Local Enterprise Partnership, and the need to work with partners beyond Oxfordshire's boundaries if all areas are to benefit equally from community wealth building activities.

RECOMMENDATIONS AND OBSERVATIONS

8. Under s. 123 of the Local Government Act 1972, Councils 'may dispose of land held by them in any manner they wish' but, unless with the consent of the Secretary of State, must not do so 'for a consideration less than the best that can be reasonably obtained'. This requirement appears straightforward, but as the increasing frequency of judicial reviews to consider councils' application of s. 123 of the Local Government Act 1972 attests, it is not.

9. Significant case law exists trying to determine the contours of the requirement to achieve the ‘best [consideration] that can be reasonably obtained’. Counter-intuitively, this does not necessarily mean the best price achieved by going to the open market,¹ nor does it require that the highest price is always accepted.²
10. Pertinent to the discussion explored at committee, the law is relatively clear that Councils are not permitted to include social value factors in their determination of best value unless those factors hold a commercial or monetary value capable of being assessed by valuers.³ This, however, has been partially abrogated by statutory instrument to allow Councils to undervalue properties by up to £2m if it promotes economic, social or environmental wellbeing.⁴ For a Council with ambitions to pursue social value and community wealth building, but whose financial strategy also involves the sale of unrequired or under-used property assets, this degree of uncertainty is not helpful and means the Council is liable to be more conservative in its approach as a consequence.
11. The Committee recognises that it is the Council’s duty to follow the law rather than to make it. However, it is a stated objective of the Chief Executive that the Council begin to demonstrate its strength much more in influencing policy at a national level. Oxfordshire is far from the only Council which will be reviewing its assets in the coming years; many of those other councils will also be seeking to promote wider social wellbeing through their disposals. Greater clarity in relation to the interactions would reduce the legal risk faced by Councils seeking to meet these two objectives. It would also give them confidence to take decisions which might otherwise not have been taken owing to legal uncertainty. In view of the change of government potentially allowing changes to established policy, and the Council’s launch of a Public Affairs section to enable the Council to influence national policy, the committee deems it timely that the Council work with the Local Government Association to open discussions with central government to clarify the workings of s. 123 of the Local Government Act 1972.

Recommendation 1: That the Council works with the Local Government Association to open discussion with central government to clarify s.123 of the Local Government Act 1972.

12. A good illustration of the tension which exists between the Council’s ambitions around community wealth building and the strategy of asset disposals to support the budget position is the Community Asset Transfer (CAT) policy, an issue discussed by the Committee. The tension lies in whether the ancillary social value benefits of providing underused assets to the community on non-

¹ R (Salford Estates) v Salford CC [2011] EWHC 2135 (Admin)

² R (Cillardara) v West Northamptonshire Council [2023] EWHC 1675 (Admin)

³ R v Pembrokeshire CC ex p Coker [1999] 4 All ER 1007; R v Hackney LBC ex p Lemon Land [2001] EWHC Admin 346 [2002] JPL 405

⁴ Circular 06/03: Local Government Act 1972 general disposal consent (England) 2003

commercial terms outweigh the opportunity cost of selling such assets and using them to fund business as usual.

13. As part of its promotion of community wealth building, the Cabinet agreed in September that the Council would 'review the CAT policy to improve effectiveness for OCC and community groups, in order to understand which OCC assets might be available for CAT, to ensure linkage with business support services and require a business plan outlining how the lease will remain affordable, and to develop a method to measure the benefits of CATs for the community and the Council.'
14. As elected members representing different localities, Committee members engage far more readily on issues around property and property usage in their divisions than most officers will. The same is true for most if not all elected members; they are aware of the currents of community opinion, the opportunities and – at times – any perceived differential treatment of organisations compared to others. Given their rootedness within those communities that a renewed CAT policy aims to serve, much valuable knowledge would be lost if the new draft were not consulted upon. The Committee's suggestion is that this would be usefully done at Locality Groups, which largely function to look at how high-level policy translates into positive outcomes at community level.

Recommendation 2: That the Council consults on its draft update of the CAT policy with Locality Groups.

15. Technically, the following observation was made in relation to a second item considered by the Committee at its 19 July meeting – the integration of the Local Enterprise Partnership (LEP) into the County Council. However, the point being made is exactly in relation to the need for integration between the Council's community wealth building approach and its work through the newly-integrated LEP.
16. As a brief recap, having listened to the speakers present that item and explored it in detail, the Committee agrees with the Leader's comments that the integration of the LEP into the County Council presents clear opportunities to strengthen the partnership and collaboration between the County Council and local businesses, and to align economic and social objectives.
17. As part of its work, the Local Enterprise Partnership is currently reviewing its Strategic Economic Plan. The Committee's view is that there are clearly opportunities for aligning economic and social objectives, but realising those opportunities is not automatic. Given the clear overlaps, in particular around skills development, if the Council wishes to maximise the social impact of its policy of community wealth building, it must coordinate and integrate this work with the planned activity of the LEP. It is vital, therefore, that the Strategic Economic Plan is developed with officers responsible for community wealth building heavily involved.

Observation 1: That to realise fully the shared benefits of the LEP and the Council's community wealth building approach, officers responsible for the latter must be fully represented and involved in the development of the LEP's Strategic Economic Plan.

18. As referenced in the summary, one area of challenge arising from the Committee referenced a perception of Oxford-centricity. Not only was Oxford used in the visuals within the CLES report, but its commentary displayed a degree of specificity around particular wards in Oxford which was not mirrored elsewhere. It is recognised that the CLES report is an external report and that the commitments of the Cabinet member were clear that it was the Council's ambition and the very point of community wealth building to address inequalities across the county. Nonetheless, it is important to be cognisant of the potential that the report the Council has drawn from to inform its own plans might be unintentionally Oxford-centric.
19. One issue the Committee wishes to highlight in particular is that there are many areas along the county borders where Oxford is not the primary economic centre; Oxfordshire shares a border with Reading, and Swindon, Aylesbury, High Wycombe and Northampton are all major economic areas close to parts of the county. If the pull of economic gravity is towards these external areas, the impact of any Oxfordshire-focused community wealth building activity is liable to be less. To equalise the impact it is necessary that the Council seek to involve key partners in non-Oxfordshire economic centres. The Committee notes that the CLES report's list of stakeholders includes few non-Oxfordshire stakeholders, and the majority of those are those who cover multiple geographic areas of which Oxfordshire is one, such as Thames Water or the Buckinghamshire, Oxfordshire and Berkshire West Integrated Care Board.

Observation 2: That the economic gravitational pull for many areas on the border of Oxfordshire is likely to be outside the county; to foster an approach which benefits these areas as much as those in and around Oxford will require proactive collaboration with organisations beyond the county boundary.

FURTHER CONSIDERATION

20. The Committee has requested a further report focusing specifically on the CAT policy to come to its November meeting. This, alongside the update on the Commercial Strategy, is hoped to provide greater clarity on the interactions between the Council's commercial and social value ambitions.

LEGAL IMPLICATIONS

21. Under Part 6.2 (13) (a) of the Constitution Scrutiny has the following power: 'Once a Scrutiny Committee has completed its deliberations on any matter a formal report may be prepared on behalf of the Committee and when agreed

by them the Proper Officer will normally refer it to the Cabinet for consideration.

22. Under Part 4.2 of the Constitution, the Cabinet Procedure Rules, s 2 (3) iv) the Cabinet will consider any reports from Scrutiny Committees.

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Annex: Pro-forma Response Template

Background papers: None

Other Documents: None

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